

For the Northern District of California

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9 J. CARLOS FERGUSON,

Plaintiff.

No. C 06-1619 SBA (WDB)

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11 v.
12 ROCKWELL HOPP,

Defendant.

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14 ORDER FOLLOWING DISCOVERY
15 STATUS CONFERENCE
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On August 30, 2006, the Court conducted a status conference in this matter on certain discovery issues and on the parties' mutual request to continue an upcoming Early Neutral Evaluation ("ENE") session. For reasons more fully explained on the record, the Court **CONTINUES the ENE session** set for September 6, 2006 and enters the following interim ORDERS:

1. At the outset of the hearing, Mr. Gold presented to the Court a copy of a letter sent from Mr. J. Kevin Snyder, Esq., at Dykema Gossett in Los Angeles to Plaintiff's counsel, Mr. Aaron Schur. This letter informed Mr. Schur that Mr. Snyder had been retained to represent Defendant and would substitute in as counsel to replace Mr. Robert Gold. Mr. Synder was *not* present at the status conference, however, nor had he filed a proper substitution of counsel as of the time of the conference. Accordingly, if Defendant and Mr. Synder intend that Mr. Snyder appear in this action on behalf of Defendant, **by no later than**

1 **Friday, September 8, 2006**, Mr. Snyder must file a proper substitution of counsel, also
2 signed by Defendant.

3 2. Given Defendant's apparent recent change of counsel and new counsel's
4 absence from the status conference, the Court sets a further status conference for **Friday,**
5 **September 15, 2006 at 1:30 p.m.**, during which the Court will set a schedule for the
6 production of documents, set a date for Defendant's deposition, and re-set a date for the ENE
7 session. When it occurs, **Defendant's deposition must be held in the Court's jury room.**

8 3. Mr. Robert Gold informed the Court that he has possession of the painting at
9 issue in this case (the "painting"). With agreement from Mr. Gold, the Court now orders that
10 **the painting will be held by the Court during the pendency of this action.** A member of
11 the Court's staff will contact Mr. Gold to arrange for the transfer of the painting to the Court,
12 and the Court will e-file an appropriate notice to all parties when the transfer is complete.
13 It is the Court's intention that Plaintiff and Plaintiff's counsel view the painting prior to the
14 deposition of Defendant.

15 4. Mr. Gold also informed the Court that after taking possession of the painting,
16 he cut out with pinking shears the portion of the canvas (on the back of the painting) with the
17 signature reading "Carlos Ferguson" — and that he did so in order to facilitate making copies
18 of the signature for purposes of this litigation. Mr. Gold further stated that, at this time, the
19 portion of the canvas that he cut out is missing. Mr. Gold stated that he would continue to
20 look for the missing piece. Accordingly, **by no later than Friday, September 8, 2006**, Mr.
21 Gold must send a letter to Plaintiff's counsel, Ms. Parker, telling Ms. Parker the status of his
22 search and whether he has found the previously cut-out portion of the canvas. Mr. Gold must
23 simultaneously submit a copy of this letter to the undersigned.

24 5. Given the apparent recent change of counsel by Defendant, **by no later than**
25 **Wednesday, September 6, 2006**, Mr. Gold must send a letter to all third parties to whom
26 he issued subpoenas in this action telling the parties that there has been a change of counsel
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1 and that the subpoena is therefore withdrawn. Mr. Gold must copy Plaintiff's counsel on all
2 such correspondence to third parties.

3 6. Finally, the Court will not rule on Plaintiff's request for costs incurred from the
4 deposition of Defendant that did not go forward on the date scheduled, nor the request for
5 disciplinary action against Mr. Gold. Under this Court's Civil Local Rules, motions for such
6 costs and sanctions must be separately noticed and filed. Should Plaintiff wish to be heard
7 on these matters, Plaintiff must therefore re-file his motions in accordance with the local
8 rules.

9 IT IS SO ORDERED.

1 || Dated: August 31, 2006

/s/ Wayne D. Brazil

WAYNE D. BRAZIL
United States Magistrate Judge

Copies: parties, SBA, WDB, ADR, stats